

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 637 OF 2005**

Ashok Shankar Surve ..Appellant

versus

Kamlakar S. Mohite ..Respondent

Ms. Sujata A. Mhadgut for the Appellant.

Mr. R. R. Sharma for the Respondent.

CORAM : D. G. DESHPANDE, J.

DATE : 20TH JULY, 2005

ORAL ORDER :

1. Heard.

2. A decree is passed against the appellant for eviction. Case of the plaintiff - respondent was that he is tenant of the premises and appellant was the gratuitous licensee both being related to each other. Plaintiff's case was accepted and defence of the appellant that he was the sub tenant of the original tenant and he was paying rent to the landlord was rejected by the court.

3. Counsel for the appellant contended that

appellant has all the documents showing his possession. But mere possession is of no use. The question is of right of the appellant to occupy the suit premises. He has no right. No documents to show that he was paying rent to the tenant or his story about payment of rent is based on oral evidence, and therefore the court was fully justified in decreeing the suit. There is no merit in this appeal. The same is dismissed along with Civil Application No.1318 of 2005.

4. An opportunity was given to the appellant so that he can get time to vacate till the rainy season is over. The offer is declined.

5. Prayer for staying the operation of this order is rejected as the appeal is dismissed at the admission stage.

6. Fees of the Commissioner to be paid by the office.

20.7.2005

(D.G. DESHPANDE, J.)